

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

David M. Johnston,

Plaintiff,

v.

Case No. 1:12cv159

Police Officer Rose Valentino,

Judge Michael R. Barrett

Defendant.

**ORDER**

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on May 30, 2012 (Doc. 5). The Magistrate Judge recommends dismissing this action with prejudice for lack of prosecution.

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Plaintiff filed a Motion for Extension of Time for File Objections to the R&R. (Doc. 7.) Plaintiff also filed a letter to the Court. (Doc. 7-2) This letter does not object to the dismissal recommended by the Magistrate Judge, except to the extent that dismissal is to be with prejudice. Plaintiff explains that he is unable to “effectively prosecute this case at this time.” The Court construes this statement, and other statements made by Plaintiff in his submissions to the Court that he is voluntarily dismissing this action. (See Doc. 4, at 2) (explaining that “unless Her Honor can provide encouragement to the contrary, I thus feel compelled to Withdraw my case # 1:12-cv-00159-MRB-SKB.”).

Accordingly, it is **ORDERED** that Plaintiff’s Motion for Extension of Time for File Objections to the R&R (Doc. 7) is **GRANTED**; and the R&R (Doc. 5) of the Magistrate

Judge is hereby **ADOPTED** to the extent it recommends dismissing the Complaint. However, Plaintiff's claims are voluntarily dismissed and **DISMISSED** without prejudice. This matter shall be closed and **TERMINATED** from the docket of this Court.

**IT IS SO ORDERED.**

/s/ Michael R. Barrett  
Michael R. Barrett  
United States District Judge